

SENATE BILL 938

C4

2lr2844
CF HB 1059

By: **Senator Mathias**

Introduced and read first time: February 13, 2012

Assigned to: Rules

Re-referred to: Finance, February 20, 2012

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2012

CHAPTER _____

1 AN ACT concerning

2 **Property and Casualty Insurance – Rescission of Policy or Binder –**
3 **Authorized**

4 FOR the purpose of authorizing an insurer to rescind a policy or binder of personal
5 insurance, commercial property insurance, or commercial liability insurance if
6 the applicant's initial premium payment is made by a check or other remittance
7 that is ~~dishonored and returned by~~ not honored on presentation to a financial
8 institution for a certain reason under certain circumstances; requiring that an
9 insurer, to rescind the policy or binder, send a certain notice to ~~the applicant~~
10 certain persons within a certain period of time, in a certain manner, and to ~~a~~
11 ~~certain address~~ certain addresses; requiring the notice to contain certain
12 statements; providing for the application of this Act; and generally relating to
13 the rescission of policies and binders of property and casualty insurance.

14 BY repealing and reenacting, without amendments,
15 Article – Insurance
16 Section 12–106(a) and (b)
17 Annotated Code of Maryland
18 (2011 Replacement Volume)

19 BY adding to
20 Article – Insurance
21 Section 12–106(j)
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2011 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Insurance**

5 12–106.

6 (a) In this section, “personal insurance” means property insurance or
7 casualty insurance issued to an individual, trust, estate, or similar entity that is
8 intended to insure against loss arising principally from the personal, noncommercial
9 activities of the insured.

10 (b) This section applies only to a binder or policy, other than a renewal
11 policy, of personal insurance, commercial property insurance, and commercial liability
12 insurance.

13 **(J) (1) AN INSURER MAY RESCIND A POLICY OR BINDER IF:**

14 **(I) THE APPLICANT’S INITIAL PREMIUM PAYMENT FOR THE**
15 **POLICY OR BINDER IS MADE BY A CHECK OR OTHER REMITTANCE THAT IS**
16 **~~DISHONORED AND RETURNED BY A~~ NOT HONORED ON PRESENTATION TO THE**
17 **FINANCIAL INSTITUTION AS UNPAID BECAUSE OF INSUFFICIENT FUNDS IN THE**
18 **ACCOUNT ON WHICH WHERE THE CHECK OR OTHER REMITTANCE IS DRAWN;**
19 **AND**

20 **(II) THE INSURER HAS DISCLOSED TO THE APPLICANT AT**
21 **THE TIME OF APPLICATION THAT NO COVERAGE WILL BE IN EFFECT IF THE**
22 **INITIAL PAYMENT IS NOT HONORED ON PRESENTATION TO THE FINANCIAL**
23 **INSTITUTION.**

24 **(2) TO RESCIND A POLICY OR BINDER, AN INSURER SHALL SEND,**
25 **~~WITHIN 10 DAYS~~ IMMEDIATELY OR THE NEXT BUSINESS DAY AFTER RECEIPT OF**
26 **~~A NOTICE OF INSUFFICIENT FUNDS~~ THAT THE CHECK OR OTHER REMITTANCE**
27 **FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED ON PRESENTATION TO**
28 **THE FINANCIAL INSTITUTION, WRITTEN NOTICE TO THE APPLICANT AND ANY**
29 **SECURED CREDITOR, BY CERTIFICATE OF MAIL AND, IF AVAILABLE, BY**
30 **ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE APPLICANT’S AND**
31 **ANY SECURED CREDITOR’S LAST KNOWN ADDRESS, STATING THAT:**

32 **(I) THE POLICY OR BINDER IS RESCINDED AS OF ITS**
33 **PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT’S CHECK OR OTHER**
34 **REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS ~~DISHONORED AND~~**

1 ~~RETURNED BECAUSE OF INSUFFICIENT FUNDS~~ NOT HONORED ON
2 PRESENTATION TO THE FINANCIAL INSTITUTION; AND

3 (II) NO COVERAGE IS IN EFFECT UNDER THE POLICY OR
4 BINDER; BUT

5 (III) IF THE FINANCIAL INSTITUTION FAILED TO HONOR THE
6 CHECK OR OTHER REMITTANCE IN ERROR, THE INSURER SHALL CONTINUE OR
7 REINSTATE THE POLICY OR BINDER WITHOUT A LAPSE IN COVERAGE IF THE
8 APPLICANT:

9 1. PROMPTLY NOTIFIES THE INSURER OF THE
10 ERROR; AND

11 2. PROVIDES DOCUMENTATION OF THE FINANCIAL
12 INSTITUTION’S ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON
13 REQUEST OF THE INSURER.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
15 policies and binders of personal insurance, commercial property insurance, and
16 commercial liability insurance issued, delivered, or renewed in the State on or after
17 October 1, 2012.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.